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FISCAL IMPACT STATEMENT

LS 7014

BILL NUMBER: SB 393

NOTE PREPARED: Jan 1, 2011

BILL AMENDED:

SUBJECT: Expungement Petitions.

FIRST AUTHOR: Sen. Taylor

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It requires a sentencing court to expunge the records of felony and misdemeanor convictions (other than records required by the sex offender registry law) if five years have passed since: (1) the completion of the person's sentence; and (2) the satisfaction of any other obligations imposed on the person as a part of the sentence.
- B. It allows a law enforcement agency, prosecuting attorney, or court to gain access to permanently sealed records under certain circumstances.
- C. It provides that if a court orders a person's records to be expunged, the person: (1) shall be treated for all purposes as if the person had not been arrested for or convicted of the felony or misdemeanor recorded in the expunged records; and (2) may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the felony or misdemeanor recorded in the expunged records.

Effective Date: July 1, 2011.

Explanation of State Expenditures: The Indiana State Police (ISP) maintains the criminal history data base. ISP may need additional staff and other resources depending on the requests that criminal defendants file for expungement if five years have passed since the person has completed their sentence and satisfied any other obligations imposed (such as probation or parole) as a part of the sentence. Depending on the number of paper records that must be pulled and sent to the court granting the order, the Indiana State Police may incur additional costs to mail these packages.

Background Information: Under current law, courts can seal arrest records from disclosure and order limited criminal history information to be either destroyed or restricted under certain conditions.

Arrest Records – An individual may petition a court to expunge arrest records if: (1) no criminal charges are filed or (2) charges were dropped due to mistaken identity, no offense was committed, or because no probable cause existed. If the arrest is expunged, no information about the arrest can be placed or retained in any criminal history repository at the state, regional, or local level.(IC 35-38-5-1)

Limited Criminal History – A person may petition ISP to limit access to an individual’s limited criminal history information to criminal justice agencies if more than 15 years have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last conviction for a crime. Exceptions include individuals who wish to volunteer services involving children under the discretion of a social services agency or nonprofit corporation, or if the individual is being sought by the parent locator service of the Child Support Bureau in the Department of Child Services. (IC 35-38-5-5)

ISP reports the number of requests to limit access to criminal history files over the past three years in the table below.

Requests to Limit Access to Limited Criminal History Files Maintained by Indiana State Police by Calendar Year			
	2008	2009	2010 (Nov. 2010)
Requests for Limiting Access of Records	79	74	80
Request Denied	4	10	21
No Action: ISP doesn’t hold record	4	8	22

Explanation of State Revenues:

Explanation of Local Expenditures: The courts who order that records be sealed may need more file space to store the paper files that they receive from the state, regional, or local central repositories of criminal history information. LSA cannot estimate the number of requests for expungement that might be filed in each county. Since the court would not be required to conduct a hearing, the added costs for *each* case would be minimal, but the cumulative effect may be potentially significant in counties with large populations of ex-offenders.

This bill would not permit persons who must register as sex or violent offenders under IC 11-8-8 to apply to have their records expunged.

Explanation of Local Revenues:

State Agencies Affected: Indiana State Police; Department of Correction.

Local Agencies Affected: Courts with criminal jurisdiction; prosecuting attorneys; local law enforcement agencies.

Information Sources: Department of Correction Offender Information System.

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